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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

JAVIER VILLALVAZO MUNDO,

Petitioner,

v.

United States Department of Homeland Security  
 ("DHS"); Department of Homeland Security,  
 Secretary MICHAEL CHERTOFF; USCIS  
 Director, EMILIO T. GONZALEZ; USCIS  
 California Service Center Director, CHRISTINA  
 POULOS; DAVID N. STILL, Director of USCIS  
 San Francisco District Office; Attorney General  
 of the United States, ALBERTO GONZALES;  
 and all unknown government agencies,

Respondents.

No. C 07-2145 MMC

**JOINT REQUEST TO AMEND OR  
 ALTER COURT ORDER OF JULY 23,  
 2007**

On July 23, 2007 this Court granted Defendants' opposed motion to remand and remanded this matter "to the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), with instructions to adjudicate petitioner's application after the conclusion of petitioner's removal proceedings." July 23, 2007 Order at 3.

Defendants' motion was based on the representation that petitioner, who has been convicted of a federal drug offense and is currently incarcerated in a federal prison in Oregon, had been placed in removal proceedings by the Department of Homeland Security, Immigration and Customs

Enforcement (ICE). The parties have since been informed that ICE has not yet served petitioner with the Notice to Appear, but intends to do so upon his release from prison. This means that petitioner is not yet in removal proceedings and that USCIS is not barred under 8 U.S.C. § 1429 from adjudicating petitioner's application for naturalization.

After conferring, the parties, rather than ask the court to take jurisdiction over this matter under 8 U.S.C. § 1447(b) and allow Defendants to re-file a motion for remand, agree that it is both in the best interest of petitioner and the Court to remand the matter to USCIS with instructions to adjudicate petitioner's application for naturalization forthwith. The parties agree that 8 U.S.C. § 1421(c) will provide a more appropriate forum for petitioner to challenge a denial, if there is one, of his application for naturalization in district court.

Date: July 27, 2007

Respectfully submitted,

SCOTT N. SCHOOLS  
United States Attorney

/s/  
ILA C. DEISS  
Assistant United States Attorney  
Attorneys for Respondents


Date: July 27, 2007

/s/  
ALEXANDER H. LUBARSKY  
Attorney for Petitioner

### ORDER

Pursuant to Stipulation, the Court's July 23, 2007 Order is hereby modified to the extent that this matter is REMANDED to the Department of Homeland Security, United States Citizenship and Immigration Services, with instructions to adjudicate petitioner's application for naturalization forthwith.

Date: August 8, 2007

  
MAXINE M. CHESNEY  
United States District Judge